IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

Bail Appl..No. 4179 of 2007()

CRMP.3667/2007 of J.M.F.C., ADOOR
CRIME NO.18/07 OF ENATH POLICE STATION, ENATH

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PETITIONER/ACCUSED 1

ANEESH,
S/O ANIYAN @ ANIL, THEGUMVILAYIL VEEDU,
PULIMALA, PUTHUSSERY BHAGAM, ENATH VILLAGE,
PATHANAMTHITTA.

BY ADV. SRI.SALIM V.S.
SRI.RAFFEEKH.K

RESPONDENTS: RESPONDENTS

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1. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. THE SUB INSPECTOR OF POLICE,
ENATH POLICE STATION,
ENATH, PATHANAMTHITTA.

BY P.P. SRI.P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. NO. 4179 of 2007

Dated this the 4th day of July, 2007

ORDER

Application for regular bail. The petitioner – a boy aged 18 years, is alleged to have kidnapped his lover – a girl aged about 14 years. They belong to two different communities. After she was so taken away, he is alleged to have compelled her to have sexual intercourse with him. She refused. There is no allegation of attempting to commit rape or commission of rape. There is only an allegation of kidnapping raised against the petitioner. The alleged incident took place on 18/6/07. The petitioner and the missing girl surrendered before the Police Station on 19/6/07. The petitioner was arrested. He continues in custody from that date.

2. The learned counsel for the petitioner submits that the petitioner – a boy aged 18 years, does not deserve to remain in custody any longer for the alleged indiscretion committed by him. Though strictly the provisions of the

Juvenile Justice Act may not apply to the case of the petitioner, the court may not lose sight of the fact that the petitioner is also a person aged slightly more than 18 years, he having been born only on 12/3/1989. Calf-love and not any contumacious intent appears to have persuaded the petitioner to commit the alleged culpable indiscretion. A lenient and humane view may be taken and the petitioner may not be compelled to remain in custody any longer, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. But notwithstanding the opposition, I am satisfied that the petitioner, who is remained in custody from 19/6/07, can now be directed to be enlarged on bail subject to appropriate terms and conditions. The boy and the girl belong to two different communities and the release of the petitioner on bail may create unpleasant law and order situation locally, submits the learned Public Prosecutor. Appropriate conditions can be imposed to allay any such apprehension, I am satisfied.

4. **In the result:**

(a) The application is allowed.

(b) The petitioner shall be released on bail on the following terms and conditions:

(i) The petitioner shall execute a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall not enter the jurisdiction of Enath Police Station.

(iii) The petitioner shall furnish to the Investigating Officer the address of his place of residence outside the jurisdiction of Enath Police Station within 7 days of his release.

(iv) The petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

5. These conditions (i.e., (ii) to (iv)) shall remain in force for a period of two months from this date.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge